

REMARKS

Claims 1-11 are now pending in the present application. Claims 1,6, 9 and 11 have been amended. Claims 1, 5, 6, 9 and 11 are independent. Reconsideration of this application, as amended, is respectfully requested.

Examiner's Advisory Action

In the Examiner's Advisory Action dated January 18, 2004, The Examiner indicated that independent claims 1, 6 and 9 do not define over the Ladisch reference, since Ladisch discloses a seal that isolates the actuating rod from the process, even though the process side of the bottom wall 36 does not directly contact the process side of the diaphragm. As the Examiner will note, independent claims 1, 6 and 9 have been amended to recite that the seal is formed "by the direct contact of" the process side of the bottom wall and the process side of the diaphragm (or sealing tip in claim 9). In view of this, it is believed that independent claims 1, 6 and 9 now clearly define over the Ladisch reference relied on by the Examiner.

In addition, in the Examiner's Advisory Action, the Examiner indicated that the rejection under 35 U.S.C. § 112, second paragraph and the double patenting rejections have been overcome by the Amendment dated January 11, 2005. Applicant appreciates this indication from the Examiner.

Finally, the Examiner noted that the amendment to claim 11 in the Amendment dated January 11, 2005 was not in conformance with 37 C.F.R. § 1.121, since the limitations from claim 10 were not underlined. As the Examiner will note, the amendments to claim 11 have been represented by the present amendment.

Reasons for Entry of Amendments

It is respectfully requested that the present amendments be entered into the official file in view of the fact that the amendments to the claims automatically place the application into condition for allowance. In the alternative, if the Examiner does not agree that the application is in condition for allowance, it is respectfully requested that the present amendments be entered for the purposes of appeal. The present amendment reduces the issues on appeal by further amending independent claims 1, 6 and 9 to define over the Ladisch reference relied on by the Examiner. The present amendments were not presented at an earlier date in view of the fact that the Applicant did not fully understand the Examiner's position until the Examiner's Advisory Action was reviewed.

Rejections Under 35 U.S.C. §§ 102 and 103

Claims 1-3, 6, 7, 9 and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ladisch, USPN 4,836,236. Claims 4 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ladisch. These rejections are respectfully traversed.

The present invention is directed to a valve for sampling a process from a tank or conduit. Independent claim 1 recites a combination of elements including "a seal, said seal being formed by the direct contact of an upper process side of a bottom wall of said internal cavity and a process side of said diaphragm to isolate said valve actuating rod and the surrounding outside environment from the process." Independent claim 6 recites a combination of elements including "a second static seal, said second static seal being formed by the direct contact of an upper process side of said bottom wall of said internal cavity and said process side of said diaphragm to isolate said valve actuating rod and the surrounding outside environment from the process." Independent claim 9 recites a combination of elements including "a seal, said seal being formed by the direct contact of a process side of a bottom wall of said internal cavity and a process side of said sealing tip to isolate said valve actuating rod and the surrounding outside environment from the process." Applicant respectfully submits that the Ladisch reference relied on by the Examiner fails to teach or suggest the present invention as recited in independent claims 1, 6 and 9.

Referring to the Ladisch reference, this reference discloses a valve having an upper housing body 32 and a bonnet 36. A diaphragm 50 is disposed between the bonnet 36 and the upper housing body 32. Referring to FIG. 4 of Ladisch, the process side of the diaphragm 50 is the side that faces the process and is therefore the upper side of the diaphragm 50. The upper side of the diaphragm of 50 of Ladisch forms a seal with a lower surface of the upper housing body 32, since the diaphragm 50 is located between the upper housing body 32 and the bonnet 36. Since the lower surface of the upper housing

body 32 does not form a bottom wall, Applicant submits that the seal formed by the direct contact of the upper surface of the diaphragm 50 and the lower surface of the upper housing body 32 is insufficient to meet the recitation in independent claim 1 of a seal being formed "by the direct contact of an upper process side of a bottom wall." In addition, to the extent the Examiner considers the upper surface of the bonnet 36 to be the upper process side of the bottom wall recited in independent claim 1, as can be clearly understood from FIG. 4 of Ladisch, the upper surface of the bonnet 36 forms a seal with a lower surface of the diaphragm 50. Since the lower surface of the diaphragm 50 is the non-process side of the diaphragm, the seal between the diaphragm 50 and the upper surface of the bonnet 36 fails to meet the recitation of a seal being formed "by the direct contact of an upper process side of a bottom wall of the internal cavity and a "process side" of the diaphragm." In view of this, the Ladisch reference fails to anticipate independent claim 1 of the present invention.

With regard to independent claim 6, for the same reasons mentioned above with regard to independent claim 1, the Ladisch reference fails to disclose the recitation of a seal formed "by the direct contact of an upper process side of said bottom wall of said internal cavity and said first, process side of said diaphragm." In addition, it should be noted that claim 6 recites "a first static seal" and "a second static seal." It is not completely understood how the Examiner is interpreting the Ladisch reference to disclose two static seals. Specifically, Ladisch fails to disclose a first static seal "formed by the direct contact of a process side of said sealing tip and a process side of said diaphragm" as recited in

claim 6. **In view of this, clarification in the next Office Communication is respectfully requested.**

Finally, with regard to independent claim 9, the Ladisch reference fails to disclose a seal being formed "by the direct contact of a process side of a bottom wall of said internal cavity and a process side of said sealing tip" as recited in independent claim 9. As mentioned above, the seal in Ladisch is formed by direct contact of a lower surface of the upper housing body 32 and a process side of the diaphragm 50 and a seal is formed by direct contact of an upper surface of the bonnet 36 and a non-process side of the diaphragm 50. Accordingly, the Ladisch reference fails to anticipate independent claims 6 and 9 of the present invention as well.

Referring to FIG. 1 of the present invention, the diaphragm 3 includes a process side that faces the process and a non-process side that faces away from the process. A bottom of the diaphragm includes a turned in edge, such that the process side of the diaphragm faces and forms a seal with an upper surface of the pedestal 50, which is a raised portion of the bottom wall 12. Since the process side of the diaphragm 50 of Ladisch does not face the upper surface of the bonnet 36, Applicant submits that the seal of Ladisch is entirely different from the seal recited in independent claims 1, 6 and 9 of the present invention. Accordingly, the Ladisch reference fails to anticipate these independent claims of the present invention.

With regard to dependent claims 2-4, 7, 8 and 10, Applicant respectfully submits that these claims are allowable due to their respective dependence upon allowable independent claims 1, 6 and 9, as well as due to the additional recitations in these claims.

In view of the above remarks, Applicant respectfully submits that claims 1-4 and 6-10 clearly define the present invention over the Ladisch reference relied on by the Examiner. Accordingly, reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. §§ 102 and 103 are respectfully requested.

Allowable Subject Matter

In the Examiner's Advisory Action, the Examiner indicates that claims 5 and 11 are allowable. Applicants greatly appreciate this indication from the Examiner. Since claims 5 and 11 have not been amended by the present amendment (except that claim 11 has been amended to show the amendment from the Amendment dated January 11, 2005), it is believed that claims 5 and 11 are still in condition for allowance.

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

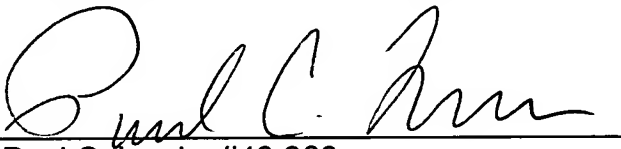
It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Paul C. Lewis, Registration No. 43,368 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By 
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PCL/cl
2153-0128P

Attachment(s)

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